

# CITY OF WESTFIELD

## COMMUNITY DEVELOPMENT DEPARTMENT

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WESTFIELD-WASHINGTON TOWNSHIP  
ADVISORY PLAN COMMISSION  
BOARD OF ZONING APPEALS  
ZONING ENFORCEMENT  
BUILDING PERMITS

January 16, 2008

**Re: 0708-DP-12 19720 Tomlinson Road**

Civil Site Group and P. C. Wright & Company requests Development Plan and Subdivision Preliminary Plat review of a new subdivision, approximately 61 lots on approximately 41.7 acres, in the SF-2 District.

**Waiver Request**

The January 28, 2008 APC hearing is six months beyond the original August 27, 2007 hearing date. To allow this petition to remain on the APC agenda for future hearings, the Advisory Plan Commission must waive the Rules of Procedure and grant this petition an extension or dismiss the petition.

Due to the date of distribution of this report and the potential for a new set of Rules of Procedure, two different courses of action have been sited and outlined below. The first is from the 2002 Rules of Procedure and the second is from the draft set to be adopted on January 17, 2008. Each has been cited pending the decision of the APC to adopt the new Rules of Procedure. Should the 2008 Rules of Procedure be adopted on January 17, disregard the 2002 procedure.

*2002*

Article VIII, Section 8 of the 2002 Advisory Plan Commission Rules of Procedure states:

*"Postponement/continuation of Commission requests to a date more than six (6) months beyond the original noticed meeting shall not be granted. The Commission shall dismiss such pending requests. The right of applicants to re-file such applications shall be preserved, providing no final disposition of the prior request has been granted. Such application shall again be subject to the payment of filing fees."*

The APC must waive Article VIII, Section 8 to allow the petitioner to continue with the filed petition. Past APC Boards have set a specific date for a response with the condition that all development issues must be resolved and no further extensions would be provided. Staff recommends that this be done in this case as well.

2008

Article VII, Section 2, Item 7 of the 2008 Advisory Plan Commission Rules of Procedure states:

*“Postponement/continuation of Commission requests to a date more than six (6) months beyond the original noticed meeting shall not be granted. The Commission shall dismiss such pending requests. The right of applicants to re-file such applications shall be preserved, providing no final disposition of the prior request has been granted. Such application shall again be subject to the payment of filing fees.”*

The APC must waive Article VII, Section 2, Item 7 to allow the petitioner to continue with the filed petition. Staff recommends that the approval be conditioned upon appearing before the February 4, 2008 workshop meeting at which time the petitioner and staff will fully update the APC on the history of this petition and provide information on its present direction.

**Petition History:**

This petition has been continued four (4) times at the request of the staff, and once due to a past decision to not hold APC meetings in December. Continuance requests made by staff were due to incomplete or non-compliant submittals.

This petition appeared before the Technical Advisory Committee at the August 1, 2007 meeting. At that meeting, representatives from the Westfield Washington School District, Westfield Fire Department, Hamilton County Surveyor’s Office, Westfield Public Works Department and Westfield Community Development Department identified multiple issues in regard to right-of-way, access, pond location, incorrect calculations, landscaping and subdivision platting of the subject site. Each continuance requested by staff has been to allow additional time to respond to the concerns of the Technical Advisory Committee. Concerns regarding access, pond location and the calculations have been addressed; however there are still outstanding issues with Westfield Public Works and Westfield Community Development

**Discussion:**

Discussion with staff from Westfield Community Development has indicated that the petitioner continues to pursue a solution to onsite issues of the subject site. However, it should be noted that communication from the petitioner has not been consistent and at times it has been difficult to obtain a response to staff inquiries.

The Westfield Public Works Department has not received any communication from the petitioner since October 19, 2007. The Westfield Community Development Department received e-mail communications on November 8 and December 27 of 2007. In January of 2008 the petitioner was contacted several times in regard to the direction of their petition for the January 28, 2008 meeting. That information was provided via e-mail January 15.

Westfield Public Works has not been provided a complete set of drawings. Westfield Community Development has not received a compliant set of plans. In order for this petition to proceed to public hearing, additional review by both agencies and possibly a return to the full TAC may be required.

**Recommendation:**

Staff recommends the APC grant the requested waiver, allowing the petition to remain on the APC agenda pending conditions outlined above under Waiver Request.

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JMM